

**UNITED STATES BANKRUPTCY COURT**

NORTHERN DISTRICT OF NEW YORK

OFFICE OF THE CLERK

RICHARD G. ZEH, SR. - CLERK

**SYRACUSE DIVISION**

THE ATRIUM

101 WEST WATER ST, SUITE 310

SYRACUSE, NEW YORK 13202

(315) 295-1600

Fax: (315) 295-1655

**ALBANY DIVISION**

JAMES T. FOLEY COURTHOUSE

445 BROADWAY, SUITE 330

ALBANY, NEW YORK 12207

(518) 257-1661

Fax: (518) 257-1650

**UTICA DIVISION**

ALEXANDER PIRNIE FEDERAL BUILDING

10 BROAD ST, ROOM 230

UTICA NEW YORK 13501

(315) 793-8101

Fax: (315) 793-8128

REPLY: Albany

DATE: 1/16/07

Ret ALB03195  
**U.S. DISTRICT COURT**  
**N.D. OF N.Y.** pa. \$9.00  
**FILED**

Lawrence K. Baerman  
Clerk, U.S. District Court  
James T. Foley Courthouse  
Albany, NY 12207

07mc4

JAN 16 2007

**LAWRENCE K. BAERMAN, CLERK**  
**ALBANY**

In Re: Granite Capital Holdings VS Neverett

Case No. 05-19129

Adv. No. 06-90089

Dear Mr. Baerman,

Pursuant to 5003(c), please find enclosed certified copies of an order and or judgment to be entered by you in connection with the above captioned matter. We are also enclosing a copy of the docket.

Kindly acknowledge receipt on the photocopy of this letter. Your assistance in this matter is appreciated.

Sincerely,

RICHARD G. ZEH, SR.  
Clerk of Court

By: Vicki A Rodriguez  
Deputy Clerk

cc: requesting party

DEFDOC, CLOSED

**U.S. Bankruptcy Court  
Northern District of New York (Albany)  
Adversary Proceeding #: 06-90089-1-rel  
Internal Use Only**

Assigned to: Judge Robert E. Littlefield Jr.  
Related BK Case: 05-19129  
Related BK Title: Joseph O. Neverett and Debbie  
Neverett  
Related BK Chapter: 7  
Demand:  
Nature[s] of Suit: 426 Dischargeability 523

Date Filed: 03/13/06  
Date Terminated: 09/19/06

I certify that this is a true copy.

Attest: Richard H. Zeh, Jr.  
Clerk of Court

By: [Signature]  
Deputy Clerk

Date: 1/16/07

**Plaintiff**  
-----

**Granite Capital Holdings, Inc.**  
**d/b/a MFG Fuel Group**  
c/o Hinman, Howard & Kattell, LLP  
Attention: Richard E. Fahrenz, Esq.

700 Security Mutual Building  
80 Exchange Street  
Binghamton, NY 13901  
607-231-6869

represented by **Richard E. Fahrenz**  
Hinman, Howard & Kattell, LLP  
80 Exchange Street  
P.O. Box 5250  
Binghamton, NY 13902-5250  
(607) 231-6869  
Fax : (607) 723-6605  
Email: rfahrenz@hhk.com  
**LEAD ATTORNEY**

V.

**Defendant**  
-----

**Debbie Neverett**  
1081 Rt. 11  
P.O. Box 8  
Champlain, NY 12919  
SSN: 086-46-0848

represented by **Randall E. Kehoe, Esq**  
127 Madison Ave.  
Albany, NY 12202  
(518) 465-2211  
Fax : (518) 465-2210  
Email: rkehoe127@aol.com

**Joseph O. Neverett**  
1081 Rt. 11  
P.O. Box 8  
Champlain, NY 12919  
SSN: 076-44-0291

represented by  
**Randall E. Kehoe, Esq**  
(See above for address)

Filing Date	#	Docket Text
03/13/2006	<a href="#"><u>1</u></a>	426 (Dischargeability 523): Complaint by Granite Capital Holdings, Inc. d/b/a MFG Fuel Group against Debbie Neverett, Joseph O. Neverett. Fee Amount \$ 250.. (Attachments: # <a href="#"><u>1</u></a> Exhibit Cover Sheet) (Fahrenz, Richard) (Entered: 03/13/2006)
03/13/2006	<a href="#"><u>2</u></a>	gen_pdf_from_html (Entered: 03/13/2006)
03/13/2006		Receipt of Complaint(06-90089-1) [cmp,cmp] ( 250.00) filing fee. Receipt number 2150303, amount \$ 250.00. (U.S. Treasury) (Entered: 03/13/2006)
03/13/2006		Robert E. Littlefield added to case, Paul M. Fischer added to case. (Didonna, Edward) (Entered: 03/13/2006)
03/14/2006	<a href="#"><u>3</u></a>	Summons Service Executed on Debbie Neverett 3/13/2006; Joseph O. Neverett 3/13/2006 (Fahrenz, Richard) (Entered: 03/14/2006)
03/16/2006	<a href="#"><u>4</u></a>	Notice of Deficiency sent to Richard Fahrenz (related document(s) <a href="#"><u>3</u></a> ). Document Correction due by 3/20/2006. (Garrow, Sean) (Entered: 03/16/2006)
03/16/2006		Attorney Richard E. Fahrenz for Granite Capital Holdings, Inc. d/b/a MFG Fuel Group added to case. (Garrow, Sean) (Entered: 03/16/2006)
04/06/2006	<a href="#"><u>5</u></a>	Stipulation/Order Extending Time To Answer Until 5/15/06 Signed on 4/6/2006 (related document(s) <a href="#"><u>1</u></a> ). (Garrow, Sean) (Entered: 04/10/2006)
05/04/2006	<a href="#"><u>6</u></a>	Stipulation And Order to Extend Time To Answer Signed on 5/4/2006. (Garrow, Sean) (Entered: 05/04/2006)
05/19/2006	<a href="#"><u>7</u></a>	Answer to Complaint Filed by Debbie Neverett, Joseph O. Neverett. (Cleveland, David) Modified on 6/7/2006 Answer should have been entered on Adversary 06-90128 (Chest, Lynn). (Entered: 05/19/2006)
05/22/2006	<a href="#"><u>8</u></a>	Notice of Pretrial Together with Certificate of Mailing. . Pre-Trial Conference set for 6/6/2006 at 12:45 PM at Albany CourtRoom. (Garrow, Sean) (Entered: 05/22/2006)

05/22/2006	● <u>9</u>	Document Filed by Debbie Neverett , Joseph O. Neverett . (Garrow, Sean) (Entered: 05/25/2006)
05/31/2006	● <u>10</u>	Notice of Appearance and Request for Notice by Randall E. Kehoe Esq Filed by on behalf of Debbie Neverett, Joseph O. Neverett. (Attachments: # <u>1</u> Certificate of Service) (Kehoe, Randall) (Entered: 05/31/2006)
06/01/2006	● <u>11</u>	Letter Re: <i>consent to change atty</i> Filed by Debbie Neverett, Joseph O. Neverett. (Kehoe, Randall) (Entered: 06/01/2006)
06/01/2006	● <u>12</u>	Letter Re: <i>consent to change atty 2</i> Filed by Debbie Neverett, Joseph O. Neverett. (Kehoe, Randall) (Entered: 06/01/2006)
06/12/2006	● <u>13</u>	Scheduling Order Signed on 6/12/2006. Pre-Trial Conference set for 7/7/2006 at 11:45 AM at Albany CourtRoom. Trial date set for 12/4/2006 at 09:00 AM at Albany CourtRoom. Discovery due by 8/7/2006. (Garrow, Sean) (Entered: 06/12/2006)
07/07/2006	●	Hearing Continued (related document(s) <u>13</u> ). Hearing scheduled for 7/14/2006 at 09:00 AM at Albany CourtRoom. (Garrow, Sean) (Entered: 07/10/2006)
07/14/2006	●	Hearing Continued (related document(s) <u>13</u> ). Hearing scheduled for 7/26/2006 at 09:00 AM at Albany CourtRoom. (Garrow, Sean) (Entered: 07/14/2006)
07/26/2006	●	Hearing Held, Settled, Order Due (related document(s), <u>13</u> ). (Garrow, Sean) (Entered: 07/26/2006)
09/01/2006	● <u>14</u>	Judgment By Confession Signed on 9/1/2006. (Attachments: # <u>1</u> Affidavit) (Garrow, Sean) (Entered: 09/01/2006)
09/01/2006	● <u>15</u>	Stipulation So Ordered on 9/1/2006 (related document(s) <u>14</u> ). (Garrow, Sean) (Entered: 09/01/2006)
09/19/2006	●	Disposition of Adversary 1-06-ap-90089 Judgment For Plaintiff. (Garrow, Sean) (Entered: 09/19/2006)
09/19/2006	●	Adversary Case 1-06-ap-90089 Closed. (Garrow, Sean) (Entered: 09/19/2006)

RECEIVED & FILED

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

SEP 1 2006

OFFICE OF THE BANKRUPTCY CLERK  
ALBANY, NY

RECEIVED

AUG 31 2006

OFFICE OF THE BANKRUPTCY CLERK  
ALBANY, NY

Case No. 05-19129

In re

JOSEPH O. NEVERETT and  
DEBBIE NEVERETT

Debtors

GRANITE CAPITAL HOLDINGS, INC.  
d/b/a MFG FUEL GROUP

Plaintiff

-against-

JOSEPH O. NEVERETT and  
DEBBIE NEVERETT

Defendants

Adv Case No. 06-90089

I certify that this is a true copy.

Attest:

*Richard H. Behr, Jr.*  
Clerk of Court

By:

*[Signature]*  
Deputy Clerk

JUDGMENT BY CONFESSION

Date: 1/16/07

AMOUNT CONFESSED.....\$220,000.00

TOTAL JUDGMENT.....\$220,000.00

JUDGMENT entered the \_\_\_\_\_ day of \_\_\_\_\_, 2006

On filing the foregoing Affidavit of Confession of Judgment made by the defendants, Joseph O. Neverett and Debbie Neverett herein, sworn to on the 16<sup>th</sup> day of August, 2006,

NOW, ON MOTION OF HINMAN, HOWARD & KATTELL, LLP, attorneys for the plaintiff, it is

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

---

In re

JOSEPH O. NEVERETT and  
DEBBIE NEVERETT

Case No. 05-19129

Debtors

---

GRANITE CAPITAL HOLDINGS, INC.  
d/b/a MFG FUEL GROUP

Plaintiff

-against-

Adv Case No. 06-90089

JOSEPH O. NEVERETT and  
DEBBIE NEVERETT

Defendants

---

**AFFIDAVIT OF CONFESSION OF JUDGMENT**

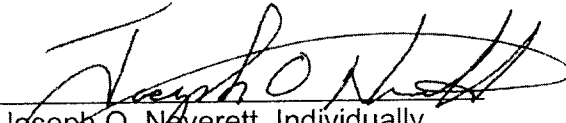
STATE OF NEW YORK     )  
                                  )  
COUNTY OF CLINTON    )

JOSEPH NEVERETT and DEBBIE NEVERETT, being duly sworn, depose and say:

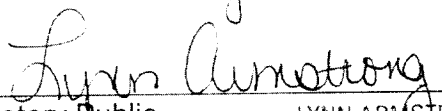
1. We are the defendants in the above entitled action.
2. We, Joseph O. Neverett and Debbie Neverett, reside at P.O. Box 8, Champlain, New York, County of Clinton.
3. We, each and severally, confess judgment in this Court, in favor of Granite Capital Holdings, Inc., plaintiff herein, for the sum of \$220,000.00, plus interest at the rate of 9% per annum from August 1, 2006.
4. This Affidavit of Confession of Judgment is for a debt justly due to the plaintiff arising out of the following facts:

Promissory Notes and Guaranties executed by the defendants securing payments for fuel delivered and purchased by defendants on a revolving line of credit.

5. Defendants, without any further notice, hereby authorize the plaintiff to enter a Judgment by Confession with the Clerk of this Court against the defendant for the sum of \$220,000.00, plus interest at the rate of 9% per annum from August 1, 2006.

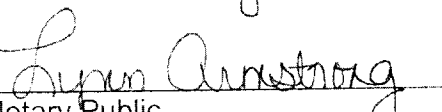
  
Joseph O. Neverett, Individually

Sworn to before me this  
16<sup>th</sup> day of August, 2006

  
Notary Public  
LYNN ARMSTRONG  
Notary Public, State of New York  
No. 01AR5034257  
Qualified in Clinton County  
My Commission Expires 10/11/06

  
Debbie Neverett, Individually

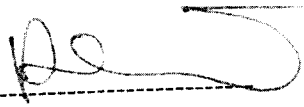
Sworn to before me this  
16<sup>th</sup> day of August, 2006

  
Notary Public  
LYNN ARMSTRONG  
Notary Public, State of New York  
No. 01AR5034257  
Qualified in Clinton County  
My Commission Expires 10/11/06

**ADJUDGED**, that Granite Capital Holdings, Inc., having a place of business at 44 Grand Street, Sidney, New York 13748, plaintiff, recover of defendants, JOSEPH O. NEVERETT and DEBBIE NEVERETT, residing at P.O. Box 8, Champlain, New York 12919, the sum of \$220,000.00, plus interest at the rate of 9% per annum from August 1, 2006, and that plaintiff have execution therefor.

Dated:

~~SEP~~ 1 2006

  
\_\_\_\_\_  
Hon. Robert E. Littlefield, Jr.  
U.S. Bankruptcy Judge



UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

**RECEIVED & FILED**

SEP 1 2006

OFFICE OF THE BANKRUPTCY CLERK  
ALBANY, NY

In re:

JOSEPH O. NEVERETT and  
DEBBIE NEVERETT,

Case No. 05-19789

**RECEIVED**

AUG 31 2006

BANKRUPTCY JUDGE  
ALBANY, NEW YORK

Debtors.

GRANITE CAPITAL HOLDINGS, INC.  
d/b/a MFG FUEL GROUP,

Plaintiff

vs.

Adv Proc No. 06-90089

JOSEPH O. NEVERETT and  
DEBBIE NEVERETT,

**RECEIVED**

AUG 31 2006

OFFICE OF THE BANKRUPTCY CLERK  
ALBANY, NY

Defendant

Honorable Robert E. Littlefield, Jr., US Bankruptcy Judge

### STIPULATION

**WHEREAS**, Granite Capital Holdings, Inc. d/b/a MFG Fuel Group, hereinafter referenced as "Granite" has commenced an adversary proceeding against the debtors, Joseph O. Neverett and Debbie Neverett, seeking dischargeability of debt and an exception to discharge pursuant to 11 U.S.C. § 523(a)(2), (4) and (6); and

**WHEREAS**, attorney Randall E. Kehoe, has been substituted for the defendants, Joseph O. Neverett and Debbie Neverett, in place and stead of Harris Beach, LLC; and

**WHEREAS**, the attorneys for the plaintiff and the attorney for the defendant are willing to settle and compromise the adversary proceeding under the following stipulated terms and conditions; and

**WHEREAS**, the trustee assigned to this case having indicated no objection to the settlement and compromise; it is

**STIPULATED AND AGREED**

I certify that this is a true copy.

Attest: Richard H. Zeh, Jr.  
Clerk of Court

By: [Signature]  
Deputy Clerk


Date: 1/16/07

- (1) that the adversary proceeding brought by Granite shall be withdrawn in its entirety; and
- (2) the defendants, Joseph O. Neverett and Debbie Neverett, hereby withdraw their answer to the adversary proceeding; and
- (3) Granite Capital Holdings, Inc. shall execute a Stipulation and Discharge, if necessary, withdrawing a Judgment by Confession entered by Granite Capital Holdings, Inc. against another entity and against Joseph O. Neverett, individually and Debbie Neverett, individually in the sum of \$223,628.29 filed September 1, 2005 in the Supreme Court of the State of New York, Delaware County; and
- (4) Joseph O. Neverett and Debbie Neverett do, by execution of this Stipulation, stipulate, agree and confess to the entry of a judgment in this Court and against them each individually in the sum of \$223,628.29.

This Stipulation is intended to be separately executed by the various parties and is dated by each party on the date indicated next to their respective signature. Further, this Stipulation represents the entire agreement between the parties.

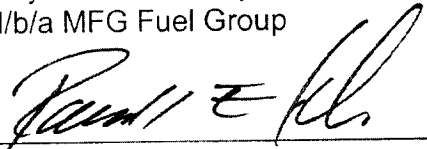
DATED:

8-20-06

  
Richard E. Fahrenz  
Attorney for Granite Capital Holdings,  
Inc. d/b/a MFG Fuel Group

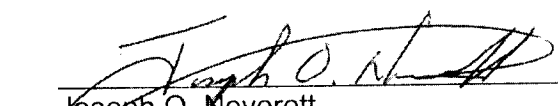
DATED:

Aug 6/06

  
Randall E. Kehoe  
Attorney for Joseph O. Neverett and  
Debbie Neverett

DATED:

8-16-06

  
Joseph O. Neverett

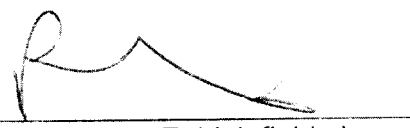
DATED:

Aug. 16, 2006

  
Debbie Neverett

The terms of this Stipulation are SO ORDERED.

DATED:

  
Honorable Robert E. Littlefield, Jr.

###

**SEP 1 2006**